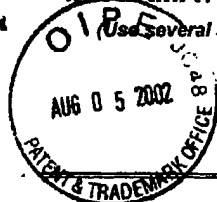


## INFORMATION DISCLOSURE CITATION

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ORIGINALLY FILEDATTY. DOCUMENT NO.  
188051  
APPLICATION NO.  
09/988,462  
APPLICANT  
KOZIEL et al  
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November 20, 2001Confirmation No.  
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## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE
A						

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	OFFICE	CLASS	SUBCLASS	TRANSLATION YES NO	
EM	B 0 290 395	9/11/88	EP			<input type="checkbox"/>	<input type="checkbox"/>
EM	C WO 90/08825	8/9/90	WIPO			<input type="checkbox"/>	<input type="checkbox"/>

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EM	D ✓	Batley, N.H., <i>Calcium-Activated Protein Kinase from Soluble and Membrane Fractions of Maize Coleoptiles</i> <i>Biochemical and Biophysical Research Communications</i> , Vol. 170, No. 1 (July 16, 1990) pp. 17-22
	E ✓	Harper et al., <i>A Calcium-Dependent Protein Kinase With a Regulatory Domain Similar to Calmodulin Science</i> , Vol. 252, (May 17, 1991) pp. 951-954
	F ✓	Polya et al., <i>Ca<sup>2+</sup>-dependent protein phosphorylation in germinated pollen of Nicotiana glauca, an ornamental tobacco</i> <i>Physiologia Plantarum</i> , Vol. 67 (1986) pp. 151-158
	G	Polya et al., Database Biosis Online, Biosciences Information Service, Philadelphia, PA, US; 1986: <i>Calcium-Dependent Protein Phosphorylation in Germinated Pollen of Nicotiana-Glauca an Ornamental Tobacco</i> Accession No. PREV198682086815
	H	Putnam-Evans et al., Database Biosis Online, Biosciences Information Service, Philadelphia, PA, US; 1989: <i>Calcium-Dependent Protein Kinase is Localized with F Actin in Plant Cells</i> Accession No. PREV19897075577
	I ✓	Putnam-Evans et al., <i>Calcium-Dependent Protein Kinase is Localized With F-Actin in Plant Cells Cell Motility and Cytoskeleton</i> , Vol. 12 (1989) pp. 12-22
EM	J ✓	Suen, K.L. and Choi, J.H., <i>Isolation and sequence analysis of a cDNA clone for a carrot calcium-dependent protein kinase: homology to calcium/calmodulin-dependent protein kinases and to calmodulin</i> <i>Plant Molecular Biology</i> , Vol. 17 (1991) pp. 581-590
	K	

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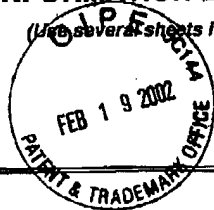
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ATTY. DOCKET NO.  
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U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE
gm	AA	5,625,136	4/29/97	Koziel et al.	800	205	9/25/92
	AB	6,121,014	9/19/00	Koziel et al.	435	69.1	6/2/95
	AC	6,051,760	4/18/00	Koziel et al.	800	302	6/2/95
	AD	6,075,185	6/13/00	Koziel et al.	800	302	6/2/95
	AE	5,350,689	9/27/94	Shillito et al.	435	240.47	3/1/93
	AF	5,380,831	1/10/95	Adang et al.	536	32.71	5/3/93
	AG	5,436,391	1/25/95	Fujimoto et al.	800	205	11/27/92
	AH	6,320,100	11/20/01	Koziel et al.	800	279	4/11/00
	AI	6,331,665	12/18/01	Lundquist et al.	800	302	3/20/96
gm	AJ	App. No. 08/438,666	Pending	Koziel et al.			5/10/95

FOREIGN PATENT DOCUMENTS

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	AL	0 431829	6/1/89	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AM	0 348348	12/1/89	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AN	0 353908	2/1/90	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AO	0 359472	3/1/90	EP			<input type="checkbox"/>	<input type="checkbox"/>
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	AQ	0 385962	9/1/90	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AR	0 408403	1/1/91	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AS	0 431829	6/1/91	EP			<input type="checkbox"/>	<input type="checkbox"/>
	AT	WO/9010076	9/1/90	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
	AU	WO/9110725	7/1/91	WIPO			<input type="checkbox"/>	<input type="checkbox"/>
gm	AV	WO/9116432	10/1/91	WIPO			<input type="checkbox"/>	<input type="checkbox"/>

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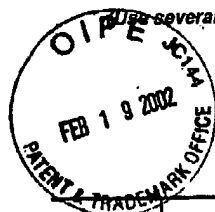
\*EXAMINER: Initial of reference considered, whether or not citation is in conformance with MPEP 609: Draw a line through citation if not in conformance and not considered. Include a copy of this form with the next communication to applicant.

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2m	AW	Barton et al., <i>Bacillus thuringiensis</i> delta-endotoxin expressed in transgenic <i>Nicotiana tabacum</i> provides resistance to lepidopteran insects <i>Plant Physiology</i> , Vol. 85 (1987) pp. 1103-1109
	AX ✓	Cheng, X. et al. <i>Agrobacterium</i> -transformed rice plants expressing synthetic cryIA(b) and cryIA(c) genes are highly toxic to striped stem borer and yellow stem borer <i>Proceedings of the National Academy of Sciences</i> , Vol. 95 (March 1998) pp. 2767-2772
	AY ✓	De Rocher, E.J. et al., <i>Direct Evidence for Rapid Degradation of Bacillus thuringiensis</i> Toxin mRNA as a Cause of Poor Expression in Plants <i>Plant Physiology</i> , Vol. 117 (1998) pp. 1445-1461 ✓
	AZ ✓	Del Vecchio Blanco, F. et al., <i>A recombinant ribosome-inactivating protein from the plant Phytolacca dioica L. produced from a synthetic gene</i> <i>Federation of European Biochemical Societies Letters</i> , Vol. 437 (1998) pp. 241-245
	BA	Fischhoff et al., <i>Insect Tolerant Transgenic Tomato Plants</i> <i>Bio/Technology</i> Vol. 5 (1987) pp. 807-813.
	BB	Geiser, et al. <i>The hypervariable region in the genes coding for entomopathogenic crystal proteins of Bacillus thuringiensis: Nucleotide sequence of the kurhd1 gene of subsp. kurstaki HD1</i> <i>Gene</i> , vol. 48 (1986) pp. 109-118
	BC	Harper et al., <i>Calcium and lipid regulation of an Arabidopsis protein kinase expressed in E. coli</i> <i>Biochemistry</i> , Vol. 32, no. 13 (1993) pp. 3282-3290
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	BF	Kim, et al. <i>A 20 nucleotide upstream element is essential for the nopaline synthase (nos) promoter activity</i> <i>Plant Molecular Biology</i> , Vol. 24 (1994) pp. 105-117
	BG ✓	Kuvshinov, V. et al., <i>Transgenic crop plants expressing synthetic cry9Aa gene are protected against insect damage</i> <i>Plant Science</i> , Vol. 160 (2001) pp. 341-353
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✓	BI	Murray et al. <i>Codon Usage in Plant Genes</i> <i>Nucleic Acids Research</i> , Vol. 17 (1989) pp. 477-498
2m	BJ	Murray et al., <i>Analysis of unstable RNA transcripts of insecticidal crystal protein genes of Bacillus thuringiensis in transgenic plant and electroporated protoplasts</i> <i>Plant Molecular Biology</i> , Vol. 16 (1991) pp. 1035-1050

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Atty. Docket No.  
1104628-0016

Serial No.  
09/988,462

**Applicants:**  
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## UNITED STATES PATENT DOCUMENTS

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Examiner: E. J. Miller

Date Considered: 11/5/03

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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Serial No.  
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FORM PTO-1449 (REV. 2-82) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Atty. Docket No.	Serial No.
	1104628-0016	09/988,462
	Applicants: Koziel et al.	
	Filing Date:	Group:
	November 20, 2001	1638

## FOREIGN PATENT DOCUMENTS

[illegible]

Examiner: E. E. M. S. L.

Date Considered: 11/5/03

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT		Applicants: Koziel et al.	
		Filing Date: November 20, 2001	Group: 1638

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

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 Listed Through

Examiner: 97M-2LDate Considered: 11/5/03

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		Applicants: Koziel et al.	
		Filing Date: November 20, 2001	Group: 1638

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Date Considered: 11/5/03

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		Applicants: Koziel et al.	
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EM	<del>Declaration of Steven v. Evola dated September 3, 1992.</del> Considered - Do NOT PRINT

Examiner: EFM

Date Considered: 11/5/03

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for

Testimony of Michael E. Fromm, Oct. 30, 1998, pp. 1175-1207, Novartis v Monsanto Co. & DeKalb Genetics Corp., U.S. District Court for the District of Delaware, Civ. Act. No. 97-39; 97-40 (RRM).

9m

Testimony of Thomas B. Klevorn, dated June 16, 1998, pp. 48-145, Monsanto Co., v. Mycogen Plant Sciences Inc., Agrigenetics, Inc. and Novartis Corp., U.S. District Court for the District of Del., Civ. Act. No. 96-133 (RRM)

96

Testimony of Michael A. Stephens, dated February 19, 2001, pp.1078-1296, DeKalb Genetics Co. v. Pioneer Hi-Bred Int'l, U.S. District Court for the Northern District of Del., Civ. Act. No. 96C50112 (PGR)

Examiner: *SFM-el.*

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INFORMATION DISCLOSURE STATEMENT  
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## UNITED STATES PATENT DOCUMENTS

*Examiner Initial	Document No.								Date	Name	Class	Sub-Class	Filing Date, if Appropriate
EM	6	4	0	3	8	6	5		06/11/2002	Koziel et al.			
EM	6	3	2	0	1	0	0		11/20/2001	Koziel et al.			
EM	6	3	3	1	6	6	5		12/18/01	Lundquist et al.			

## FOREIGN PATENT DOCUMENTS

*Examiner Initial	Document No.								Date	Country	Class	Sub-Class	Translation Yes No	

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

EM	<del>Kim et al., A 20 nucleotide upstream element is essential for the nopaline synthase (nos) promoter activity (1994) Plant Mol. Biol. 24(1):105-117.</del>
EM	<del>Harper et al., Calcium and lipid regulation of an Arabidopsis protein kinase expressed in Escherichia coli (1993) Biochemistry 32(13): 3282-3290.</del>
EM	<del>Murray et al., Analysis of unstable RNA transcripts of insecticidal crystal protein genes of Bacillus thuringiensis in transgenic plants and electroporated protoplasts (1994) Plant Mol. Biol. 16:1035-1050.</del>
	Duplicates lined through

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		Applicants: Koziel et al.	
		Filing Date: November 20, 2001	Group: 1638

## UNITED STATES PUBLISHED PATENT APPLICATIONS

*Examiner Initial	Document No.	Date	Name	Class	Sub-Class	Filing Date, if Appropriate
EM	2 0 0 1 0 0 0 3 8 4 9	6/14/01	Barton et al.	800	279	4/17/98

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

EM	Published opinion - <u>Monsanto v. Mycogen Plant Science, Inc.</u> , 261 F.3d 1356 (Fed. Cir. 2001)
	Published opinion - <u>Monsanto v. Mycogen Plant Science, Inc.</u> , 61 F. Supp. 2d 133 (D. Del. 1999)
	<del>Trial Testimony - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 120-137</del>
	<del>Trial Testimony of Kenneth Barton - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 1047-1066</del>
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	<del>Trial Testimony of Sandra Cannon - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 1110-1125</del>
	<del>Trial Testimony - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 2207-2228 and 2689-2701</del>
	<del>30(b)(6) Statement made by Monsanto concerning the Barton and Miller work, read into the record at the trial of Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 1307-1312</del>
	<del>Excerpts from Michael J. Miller notebook 366</del>
	<del>Excerpts from Ken Barton notebook 156</del>
	<del>Excerpts from Sandra Cannon notebook 323</del>
	<del>Excerpts from Sandra Cannon notebook 316</del>
	<del>Excerpts from Sandra Cannon notebook 413</del>
	<del>Excerpts from Michael Miller notebook 404</del>
	<del>Improved Expression of Genes in Plants</del>
TM	Agracetus Research and Development Report: Third Quarter, 1988

Examiner: EM-EL

Date Considered: 11/5/03

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Serial No.  
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**Filing Date:**  
**November 20, 2001**

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9m

Defendants Trial Exhibit 2081, Fromm et al., Biotechnology, September 1990, pp. 833-839.

~~Defendants Trial Exhibit 2154A, Excerpt from Notebook entitled "Particle gun expt. Gun 27 →" referring to gun experiment number 147.~~

~~Plaintiff's Trial Exhibit 510, Armstrong Notebook monthly reports pasted into notebook in 1993.~~

~~Trial Testimony of Frederick Perlak - Novartis Seeds, Inc. v. Monsanto Co. & DeKalb Genetics Corp., Civil Action No. 97-39&40 (RRM), pp. 1312-1356.~~

Defendants' Trial Exhibit 1895-A, Excerpts of Monsanto Notebook, dated 12/12/86.

Defendants' Trial Exhibit Nos. 1725, Perlak Notebook No. 3,706,601, dated March 13, 1987

Defendants' Trial Exhibit 1725-A, Excerpt of Perlak Notebook No. 3,706,601, September 8, 1987

Defendants' Trial Exhibit 1730, Perlak Notebook 3,850,001, dated November 20, 1987

Defendants' Trial Exhibit 1227, Perlak et al., Biotechnology, October 1990, pp. 939-943.

Defendants' Trial Exhibit 1969, Perlak et al., Proc. Natl. Acad. Sci. USA, April 1991, pp. 3324-3328.

Defendants' Trial Exhibit 1024, Koziel et al., reprint from *Biotechnology*, February 1993, pp. 194-200.

~~Defendants' Trial Exhibit 2549, DNA sequence.~~

~~Defendants' Trial Exhibit 2550, "Modified Bt Gene Designed By Monsanto".~~

9m

Plaintiff's Trial Exhibit 1672, U.S. Patent 5,763,241, dated June 9, 1998.

Examiner: E. F. M. E. L.

Date Considered: 11/5/03

\*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449 (REV. 2-82)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE  INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Atty. Docket No.	Serial No.
		1104628-0016	09/988,462
		Applicants: Koziel et al.	
		Filing Date:	Group:
		November 20, 2001	1638

**OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)**

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Examiner:  $\Sigma \neq m, \Sigma \text{lozi}$

Date Considered: 11/5/03

\*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE  
(REV. 2-82) PATENT AND TRADEMARK OFFICE  
INFORMATION DISCLOSURE STATEMENT  
BY APPLICANT

Atty. Docket No.  
1104628-0016

Serial No.  
09/988,462

Applicants:  
Koziel et al.

Filing Date:  
November 20, 2001

Group:  
1638

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

Em	<del>Trial Testimony of Irvin Mettler - Novartis v. Monsanto, Civil Action No. 97-39 &amp; 97-40, pp. 2299-2336</del>
	<del>Trial Testimony of Irvin Mettler - Novartis v. Monsanto, Civil Action No. 97-39 &amp; 97-40, pp. 2337-2354</del>
	<del>Trial Testimony of Irvin Mettler - Plant Genetics Systems v. Northrup King, Civil Action No. 96-459, pp. 850-957</del>
	<del>Trial Testimony of Ed Resler - Novartis v. Monsanto, Civil Action No. 97-39 &amp; 97-40, pp. 733-741</del>
	<del>Trial Testimony of Stephen Evola - Novartis v. Monsanto, Civil Action No. 97-39 &amp; 97-40, pp. 399-526</del>
	<del>Trial Testimony of Stephen Evola - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 827-891</del>
	<del>Trial Testimony of Thomas Klever - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 262-264</del>
	<del>Trial Testimony of David Fischhoff - Monsanto v. Mycogen &amp; Ciba Geigy, Civil Action No. 96-133 (RRM), pp. 1953-1955</del>
	Agreement between Monsanto Company and Sandoz for Development of Insect Resistant Corn
	Excerpts from Palo Alto Plant Biotechnology Report: First Quarter, 1989 (DX 2665)
	ZRB Project Meeting (DX 2281)
	Modification of the Research Agreement Between Monsanto Company Sandoz. (DX 2269)
	PAB-6 Technical Report (DX 2266)
	PAB-10 Bt Insect Resistance (DX 2284)
	DNA Samples and expressions cassettes for expression of B.T. toxin protein and PAT
	Samples of Northrup NK-A and NK-B to be used in backcrosses.
	Shipment of 10 best frozen leaf tissue from each experiment for crossing to NK-A and NK-B lines.
	Report on Maize transformation experiments with Sandoz plasmids 1502 and 1503.
	Letter from G. Donn to Irvin Mettler regarding shipment of leaf samples
	Plants from transformants Nr. 1502-1, 1503-2, 1502-11 and 1503-3, 1503-7 will follow soon (DX 2286)
	Letter from Gunter Donn to Irvin Mettler regarding shipment of leaf samples (DX 2285)
Em	Facsimile from Irvin Mettler to Ron Meeusen referencing facsimile from Mettler to Donn regarding ELISA assays (PX278)

Examiner: *Em*

Date Considered: 11/5/03

\*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Documents lined through have been considered - Do NOT PRINT, No dates



FORM PTO-1449 (REV. 2-82)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	Atty. Docket No. 1104628-0016	Serial No. 09/988,462
INFORMATION DISCLOSURE STATEMENT BY APPLICANT		Applicants: Koziel et al.	
		Filing Date: November 20, 2001	Group: 1638

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

EM	<del>Stanton Biotechnology - October Highlights (PX194)</del>
	<del>Facsimile from Irvin Mettler to Gunter Donn regarding ELISA assays and the collection of additional plant organ samples (PX195)</del>
	<del>Northrup King Biotechnology Report (DX 2256)</del>
	<del>Minutes of the Bt (MDMV) Corn Planning Meeting, Stanton, Minnesota</del>
	<del>Biologische Forschung, Bereich C, H 872 N</del>
	<del>PAB-10 Bt Insect Resistance Fourth Quarter Report (DX 2288)</del>
	<del>Fourth Quarter Report of Plant Biotechnology</del>
	<del>Cover letter from G. Donn to I. Mettler with enclosures lyophilized leaf samples from 1502 plants. (PX281)</del>
	<del>Facsimile from Gunter Donn to Ron Meeusen regarding field testing (PX640)</del>
	<del>Facsimile from Irving Mettler to Gunter Donn regarding ELISA assays (PX282)</del>
	<del>Facsimile from G. Donn to L. Murry re western analysis</del>
	<del>Facsimile from G. Donn to R. Meeusen re: the shipment of maize seeds to the APHIS-inspection station.</del>
	<del>Facsimile from G. Donn to R. Meeusen re: shipment of seeds sent</del>
	<del>Plant Biotechnology Report: Third Quarter, 1992</del>
	<del>Transgenic Project #1 (DX 2255)</del>
	<del>B.T. Corn NK 1996 Product (PX382)</del>
	<del>Summary of bioactivity assays of contra-transformed BMS calli (conducted July 11 &amp; August 1, 1990). Insect assay with 1st instar Manduca sexta larvae (0 to 6 hours old), five per plate. Assays conducted and scored by D. Cerf. (DX 2282)</del>
EM	<del>Research Highlights - Novel Genetics (PX20)</del>

Considered - Do Not Print

Examiner: *EFM'el*Date Considered: *11/5/03*

\*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Atty. Docket No.  
1104628-0016

Serial No.  
09/988,462

**INFORMATION DISCLOSURE STATEMENT  
BY APPLICANT**

**Applicants:**  
Koziel et al.

Filing Date:  
November 20, 2001

Group:  
1638

UNITED STATES PUBLISHED PATENT APPLICATIONS

*Examiner Initial	Document No.	Date	Name	Class	Sub- Class	Filing Date, if appropriate
					JUL 31	2003

**OTHER DOCUMENTS** (including Author, Title, Date, Pertinent Pages, Etc.)

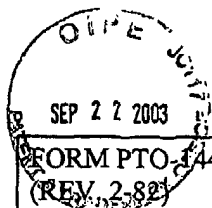
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**Examiner:**

**Date Considered:**

11/5/03

**\*Examiner:** Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



FORM PTO-449 (REV. 2-82)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Atty. Docket No. 1104628-0016	Serial No. 09/988,462
		Applicants: Koziel et al.	
		Filing Date: November 20, 2001	Group: 1638

## UNITED STATES PATENT DOCUMENTS

*Examiner Initial	Document No.	Date	Name	Class	Sub- Class	Filing Date, if Appropriate

## FOREIGN PATENT DOCUMENTS

*Examiner Initial	Document No.	Date	Country	Class	Sub-Class	Translation Yes No
EM	3 6 5 6 8 8 9	21 Dec 1989	Australia			
EM	4 6 8 8 1 8 9	21 Jun 1988	Australia			

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

EM	<del>Motion of Defendant Dow Agrosciences LLC, Mycogen Plant Science, Inc. and Agrigenetics, Inc. For Leave to Amend Its Answer</del>
EM	<del>Motion for Leave to File Second Amended Answer and Counterclaims, by Defendants Monsanto Company and DeKalb Genetics Corp.</del>
EM	<del>Pioneer Hi-Bred International, Inc.'s Motion to Further Amend Its Answer, Affirmative Defenses and Counterclaims</del>
	Documents considered - DO NOT PRINT
	No dates

Examiner: EFM:el

Date Considered: 11/5/03

\*Examiner: Initial citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.